

Calendar No. 1309

68TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 1235

CONFERRING JURISDICTION UPON THE COURT OF CLAIMS TO HEAR, EXAMINE, ADJUDICATE, AND ENTER JUDGMENT IN ALL CLAIMS WHICH THE KANSAS OR KAW TRIBE OF INDIANS MAY HAVE AGAINST THE UNITED STATES

FEBRUARY 26, 1925.—Ordered to be printed

Mr. HARRELD, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany H. R. 9062]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 9062) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any and all claims, of whatever nature, which the Kansas or Kaw Tribe of Indians may have or claim to have, against the United States, and for other purposes, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1394, Sixty-eighth Congress, second session, which is appended hereto and made a part of this report.

[House Report No. 1394, Sixty-eighth Congress, second session]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 9062) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any and all claims of whatever nature, which the Kansas or Kaw Tribe of Indians may have or claim to have, against the United States, and for other purposes, having considered the same, report thereon with a recommendation that it do pass with the following amendments:

Page 3, line 4, after the word "Interior" insert "and such contract shall be executed and approved as required by section 2103-5 of the Revised Statutes of the United States."

Page 4, line 3, strike out the words "prior to."

Page 4, line 8, strike out the period and insert "and in no event shall such fees exceed the sum of \$25,000."

Page 4, line 11, after the word "persons" insert "or tribes or bands of Indians."

Your committee has given this bill careful consideration and feel as though the Indians should be given the right to present their claims to the Court of Claims.

The Government is fully protected in this measure, and your committee unanimously recommends the enactment of this bill with the above amendments.

The report of the Secretary of the Interior on this bill is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, May 19, 1924.

Hon. HOMER P. SNYDER,
Chairman Committee on Indian Affairs,
House of Representatives.

MY DEAR MR. SNYDER: Reference is made to your letter of May 5, 1924, inclosing for a report thereon a copy of H. R. 9062, being a bill to confer jurisdiction on the Court of Claims to adjudicate and render judgment in claims alleged by the Kansas or Kaw Tribe of Indians against the United States.

The act of Congress approved July 1, 1902 (32 Stat. L. 636), accepted, ratified, and confirmed an agreement with these Indians. Section 12 of the act provides, in part:

"All claims of whatever nature which said Kansas or Kaw Tribe of Indians may have or claim to have against the United States shall be submitted to a commission to be appointed by the Secretary of the Interior from the officers or employees of his department, for investigation, consideration, and settlement; and the United States shall, without delay, render to said tribe of Indians a complete accounting of all moneys agreed to be paid to said tribe to which said tribe may be entitled under any treaty or act of Congress."

A commission was appointed by this department to perform the duties required by the provision of the act, and by section 7 of the act of March 3, 1905 (33 Stat. L. 1079-1080), Congress appropriated the sum of \$155,976.88 in full settlement of the claims of the Kansas or Kaw Indians against the United States—

"* * * as established by the award of the Kaw Commission * * *
*Provided, however, That no part of said sum shall be paid until said Indians, in general council lawfully convened for that purpose, shall execute and deliver to the United States a general release of all claims and demands of every name and nature against the United States. * * **"

The records show that the required resolution, accepting the award and findings of the Kaw Commission, was passed November 26, 1904, by a tribal council composed of a majority of the adult members of the tribe. (Indian Office Letter Book, Land Correspondence, vol. 722, p. 151, Indian Office, File No. 85626, 1904.)

Regarding the surplus land claim referred to in H. R. 9062, the report of the commission submitted under date of June 30, 1904, shows that the attorney employed by the tribe under contract approved by this department appeared before the commission in connection with this alleged claim. The claim as set forth by him is as follows:

"That after deducting from the original landed possessions owned by said Kaw or Kansas nation or tribe of Indians, all of the lands ceded to the Government of the United States under and by virtue of said treaties, the said Kaw or Kansas nation or tribe of Indians were still possessed of 1,283,200 acres of land, more or less, as shown by the Government surveys thereof made in 1827 and 1830 to 1836. That the Government of the United States, without compensation, by mistake or otherwise, assumed exclusive control of said surplus land and deprived the said Kaw or Kansas nation of Indians of every portion thereof."

It was the unanimous opinion of the commission that the claim was not a valid one, as by the treaty of 1825 (7 Stat. L. 244) the Indians ceded all the territory which they had previously claimed or occupied except a reservation 30 miles wide extending through the territory ceded; and as under the treaty of 1846 (9 Stat. L. 842) the Indians ceded a part of such reservation, comprising approximately 2,000,000 acres, and agreed to relinquish the remainder in the event of there being an insufficiency of timber thereon. In the latter event the Indians, by the same treaty, authorized the President to select a suitable country for them, and this was later done. It seems conclusive, therefore, that by the treaties of 1825 and 1846 the Kansas or Kaw Indians, in consideration of the sums therein agreed to be paid them, or set apart for their benefit, and also in consideration of the setting apart of another tract of country for their future residence, relinquished to the United States all their right and title to the territory they had formerly claimed and occupied

However, should Congress desire this matter reopened and adjudicated by the Court of Claims, it is suggested that the bill be amended as follows:

After the word "Interior," page 3, line 4, change the period to a comma and insert the following: "and such contract shall be executed and approved as required by sections 2103-2105 of the Revised Statutes of the United States."

Page 4, line 3, strike out the words "prior or."

On page 4, at the end of line 8, change the period to a comma and add the following: "and in no event shall such fees exceed the sum of \$25,000."

After the word "persons," line 11, page 4, insert "or tribes or bands of Indians."

Very truly yours,

HUBERT WORK.



However, should Congress desire this matter weighed and adjusted by the President, it is suggested that he be so empowered as follows:

After the first January, 1918, should the President, in a written and signed order, direct the following, and such order shall be executed and approved as required by section 2102, 2103 of the United States of the United States:

Page 1, the 2, shall not be a part of the...

On page 4, at the end of line 2, change the period to a comma and add the following: "and no other such order shall be executed as required by section 2102, 2103 of the United States of the United States."

After the word "person," line 11, insert the word "or other in and of Indian."

Very truly yours,

Blair H. Brown

